



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
LANSING

KEITH W. COOLEY
DIRECTOR

**STATE BOUNDARY COMMISSION
BUREAU OF CONSTRUCTION CODES**

Conference Room 3, First Floor
2501 Woodlake Circle
Okemos, MI 48864

AGENDA

September 20, 2007
1:30 p.m.

1. DOCKET #07-AP-2: KENT COUNTY

Legal sufficiency on a petition proposing the annexation of certain territory in Vergennes Township to the City of Lowell.

- a. Call to Order and Determination of Quorum.
- b. Opening Statement.
- c. Comments and/or Presentations by Involved Parties.
- d. Public Comment.
- e. Commission Questions/Discussion/Deliberation.
- f. Commission Action.
- g. Adjourn.

2. DOCKET #06-I-1: KALAMAZOO COUNTY

Adjudicative session on the proposed incorporation of the Village of Climax as a home rule city.

- a. Call to Order and Determination of Quorum.
- b. Opening Statement.
- c. Comments and/or Presentations by Involved Parties.
- d. Public Comment.
- e. Commission Questions/Discussion/Deliberation.
- f. Commission Action.
- g. Adjourn.

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3. **DOCKET #06-AP-2: LAPEER COUNTY**

Adjudicative session on the proposed annexation of certain territory in Elba Township to the City of Lapeer.

- a. Call to Order and Determination of Quorum.
- b. Opening Statement.
- c. Comments and/or Presentations by Involved Parties.
- d. Public Comment.
- e. Commission Questions/Discussion/Deliberation.
- f. Commission Action.
- g. Adjourn.

4. **DOCKET #07-AP-3: EATON COUNTY**

Adjudicative session to adopt the Summary of Proceedings, Findings of Fact, and Conclusions of Law for the rejection of legal sufficiency on the proposed annexation of certain territory (Grand Ledge Oak Tree Village LLC) in Oneida Township to the City of Grand Ledge.

- a. Call to Order and Determination of Quorum.
- b. Opening Statement.
- h. Comments and/or Presentations by Involved Parties.
- i. Public Comment.
- j. Commission Questions/Discussion/Deliberation.
- k. Commission Action.
- l. Adjourn.

**DOCKET MATERIALS FOR THIS MEETING WILL BE AVAILABLE ON THE WEB
TEN DAYS PRIOR TO THE MEETING AT:**

- **www.michigan.gov/bcc**
- CLICK ON “COMMISSIONS/BOARDS” ON LEFT SIDE OF WEB PAGE.
- CLICK ON “STATE BOUNDARY COMMISSION”.
- EACH AGENDA ITEM IS LISTED UNDER THIS MEETING DATE.

TO CONFIRM WHETHER A DOCKET ITEM HAS BEEN POSTPONED, OR IF YOU HAVE ANY QUESTIONS,
PLEASE CALL (517) 241-6321 BEFORE 11:00 AM ON THE DAY OF THE MEETING.

THE COMMISSION MAY REVISE THIS AGENDA OR TAKE UP OTHER PROPERLY NOTICED ITEMS AS NEEDED AND TIME
ALLOWS. AGENDA ITEMS MAY NOT NECESSARILY BE CONSIDERED IN THE SAME ORDER AS LISTED ABOVE.

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Please make sure all cell phones, pagers, and other personal electronic devices are either turned off or set to vibrate. The meeting site is accessible and includes handicapped parking. In order to enhance accessibility for everyone, individuals attending the meeting are encouraged to refrain from using heavily scented personal care products. Persons with disabilities requiring additional accommodation in order to participate should contact the Boundary Commission Office by either telephone (517-241-6321) or email (holmesc@michigan.gov) at least ten business days in advance.
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LANSING

KEITH W. COOLEY
DIRECTOR

To: State and Lapeer County Boundary Commissioners

From: Christine Holmes, Manager
State Boundary Commission

Date: September 12, 2007

Subject: **ADJUDICATIVE SUMMARY**
Docket # 06-AP-2: Petition for Annexation of Certain Territory in
Elba Township to the City of Lapeer

In addition to other information and comments submitted during the public hearing, the 30-day comment period, and the 7-day rebuttal period, this docket summary offers guidance to assist you in your adjudicative deliberation and decision-making in consideration of the 18 point evaluation criteria.

1. The petitioners are identified as Richard Menzing (Faith Christian Family Church), Peter Whitman, and James Harrington. Of the 60.168 acres the petitioners are requesting to be annexed, the church owns and is located on a 10 acre parcel, and Messrs. Whitman and Harrington own a 50.168 acre vacant parcel.
2. A large area of territory located on the south side of Davison Road (M-21) is adjacent to the petitioned area and is currently under a 425 conditional transfer agreement between the City of Lapeer and Elba Township. That agreement is scheduled to expire in 2036. Whether the petitioned area is approved for annexation, and whether the 425 property is ultimately annexed to the City, a strip of Township territory located east of the petitioned area and north of the 425 property along Davison Road (M-21) could potentially become a township enclave/island. In consideration of this possibility, the Commission proposed expanding the area being considered for annexation, during their meeting on legal sufficiency of the petition, to include the township island territory in order to hear public comment from respective property owners.
3. Petitioners:
 - o Efforts to negotiate a 425 agreement between the City and the Township have been unsuccessful.
 - o Sale of the 50.168 acre vacant parcel to a purchaser who has made the first offer in decades is contingent upon annexation and availability of water and sewer. The

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- proposed development of this parcel would link with a proposed residential community to be built on a portion of golf course property located adjacent to the petitioner's property. The sale is still under negotiation.
- Availability of water and sewer services in order to develop the 50 acre parcel as soon as the economic situation allows.
 - Existing soil conditions are poor and much of the vacant property is wetland, thereby making a lagoon system or onsite sewage disposal facility impractical and cost-prohibitive.
 - At the time Messrs. Whitman and Harrington purchased their property 30 years ago, it was believed that Elba Township would eventually bring a sewer system to their property.
 - When the Church purchased their property, the ability to expand and public water for fire suppression were considerations. At that time, they were led to believe that the City and Elba Township would likely enter into a shared revenue agreement which would eventually provide city services to their property. Now that the Church is in need of expanding, no agreement is available which would provide them with city water.
 - The Church cannot expand its facilities without public water for the fire suppression (automatic sprinkler system), and they presently incur higher insurance costs associated with not having access to a larger fire department.
 - For the Township to provide water to the Church from the Lake Nepessing plant or other distant point would be cost-prohibitive to the property owner.
 - City water and sewer lines are located approximately 1,000 feet east of the petitioned area.
 - Elba Township is unable to provide public water or sewer to the petitioned territory.
 - City fire and police stations are located closer to the petitioned properties than those located in the Township.
 - Lack of city services will hinder quality residential development on the vacant land and full utilization of the church property.
 - The vacant 50-acre parcel currently pays \$135 in township property taxes; the church property is tax-exempt.
 - Advantages to annexation of the petitioned area: square off the city boundary; provide a better opportunity for the church to expand community services; provide the opportunity to develop vacant land; and, provide additional tax base to the city, county, and schools.
 - The petitioners would like their property considered for annexation independently of the proposed expanded township island area.

4. Demographics:

City of Lapeer

| | |
|--------------------|-----------------------|
| 2000 population | 9,072 |
| Square miles | 7 (4,528 acres) |
| Population density | 1,296 per square mile |

Township of Elba

| | |
|--------------------|-----------------------------|
| 2000 population | 5,462 |
| Square miles | not provided (22,080 acres) |
| Population density | .206 per acre |

Size of petitioned area 60.168 acres

Size of proposed expanded area 25 acres
Population 30

2006 SEV

- City \$310,525,500
- Township \$285,763,400
- Expanded area \$ 74,100

2006 Unit Millage

- City 10.0500
- Township 2.8785

5. The City of Lapeer provides the following services:

- Police and Fire Protection
 - Police: ○ 20 full-time / 5 part-time (also County Sheriff and State Police).
 - Police Station located 1.3 miles from petitioned territory; ½ mile from expanded area.
 - Fire: ○ 3 full-time / 37 volunteer.
 - Fire station is located 1.7 miles from petitioned territory; .6 - .8 miles from expanded area.
 - Underwriters rating: 5.
 - Equipment: 3 pumpers/1 tanker/1 brass fire truck/1 aerial vehicle/1 fire and rescue vehicle.
 - Performs annual fire inspection of commercial sites.
 - Participates in Mutual Aid Agreement and assists Township when needed (structural fires only).
 - Contracts with 3 townships.
- Public water and sanitary sewer
 - Water main to service petitioned area is a distance of approximately 1000 feet; sewer lines are a distance of approximately 400 feet.
 - Water is supplied to City by contract with City of Detroit Water Department.
 - Wastewater Treatment Plant.
 - Water and sewer are not extended outside city limits.

Tap-in fees:

| | |
|-------|---|
| water | \$100/inch (eg 1 inch line = \$100.00) |
| sewer | residential \$2,000.00 (flat cost) |
| | commercial \$.25/sq. ft. |
| | industrial/institutional \$ 1.00/sq. ft. (none in city) |

6. Elba Township provides the following services:

- Police and Fire Protection
 - Police: ○ County Sheriff and Michigan State Police.
 - Station located approximately 1 mile from petitioned territory.
 - Fire: ○ 40 volunteer.

- Fire station is located approximately 4-5 miles from petitioned territory.
- Underwriters rating: 8.
- Equipment: 3 pumpers/2 tankers/2 brass fire trucks/no aerial vehicle/ 1 fire and rescue vehicle.
- Participates in Mutual Aid Agreement and assists City when needed (structural fires only).

7. City of Lapeer:

- Supports annexation of both petitioned and proposed expanded areas.
- Including petitioned and proposed township island areas, 13 out of 27 property owners (50%) want to be annexed.
- City adopted policy and wrote a notification letter to Elba island residents that if they are annexed to the City and currently utilize a functioning septic system or water well, they will not be required to connect with city utilities until their well or septic system fails or is abandoned by owner, and then only if the utility is within 150 feet of their home. Some of the island properties are already connected to city sewer, and only one is connected to city water. The motel has city sewer and expressed interest in being annexed.
- Elba Island residents who are connected to city water or sewer also pay full property taxes to both the City of Lapeer and Elba Township.
- Any Township resident with City utilities chose to pay an 'in lieu of taxes' charge for their utilities that is equal to the City property tax. Annexation would reduce their taxes dramatically.
- Costs to operate a well and distribute water if property is in the Township on a well would also include installation and maintenance of the well.
- Existing Township islands within city limits are very difficult to work around; these pose an impairment to planning and facilitating orderly community growth.
- Imposes a city income tax.
- Offered township island residents access to the City Community Center at discounted rate if they are annexed.
- Property values for petitioned and expanded area would improve with city utilities.
- Claims to have a long history of development and maintenance of wetlands, parks, walking trails, and wooded areas.
- Recently acquired Clover School (a one room school house on one acre located in Elba Township and located on Davison Highway/M-21 in southwest corner outside of petitioned territory) in trade to Lapeer School District. Long-term goal of the City is to use this area as the opening phase to extend Lake Nepessing Road north for access to Oregon Road in order to relieve traffic congestion on other local routes, including traffic flow related to the I-69 corridor. The proposed road extension, which has received approval of the Lapeer County Road Commission, would run along entire west portion of petitioner's property, and also alleviate landlocked parcels west of the petitioned area. *(Note: area property owners spoke at the public hearing in opposition to this road extension and claimed that the road would devalue their property and create traffic congestion; they want to maintain the rural character of their area.)*

8. Elba Township:

- Opposes annexation of both the petitioned area and the proposed expanded area, but would like these considered separately.
- Received letters from island residents in proposed expanded area indicating they do not want to be annexed to city.
- Submitted newspaper ad at public hearing and a letter from golf course developer in the 30-day material, both of which indicate that the Rolling Hills Golf Course will continue to operate as a golf course and that the “development deal is off” to build site condominiums.
- Since plans to develop the 50.168 acres were intended to coincide with development of the golf course property, and the plans to develop the golf course are not going forward, there is no need for the property owned by petitioners Whitman and Harrington to receive city water, sewer, or other services.
- Has ability to provide water and sewer service to petitioners:
 - through a 1986 Land Transfer Agreement, the City agreed to make sewer service available to areas of Elba Township; capacity is still available. *(Note: a provision in the 1986 425 Agreement limits the area in which excess sewer capacity can be extended by the City. The petitioned territory is not included in this specified area.)*
 - water service is available by Elba Township through the Port Huron-Flint water line that also services the City of Lapeer.
- Township residents pay 1.5 times what city residents pay for water and sewer service (water and sewer payment in lieu of tax).
- When Church purchased property, they were fully aware that city water and sewer service was not available.
- Fire protection services should not be an issue for Church, since City and Township participate in mutual aid agreement, and assist each other when needed.
- Fire Department has three 30,000 gallon tanks of water within 1,400 feet of church property, and two dry-hydrants within three-quarters of a mile of church property.
- If the bowling alley located across the street from the Church can operate with a well and septic field, the Church can do so as well.
- Continued annexation makes township services increasingly more difficult to provide.
- No income tax.
- Elba is only township in Lapeer County that has a wetlands ordinance, and possibly only township in state thumb area to have a wetlands and wet waterway ordinance. Township wants to regulate their own development in and near fragile habitats.

9. Other:

- Property owners of the Sterling Gardens subdivision spoke at the public hearing and submitted written comments during the 30-day period. *[Sterling Gardens, located west of the territory petitioned for annexation, is neither part of the petitioned area nor the expanded area being proposed for annexation. Certain property owners were notified of the public hearing in compliance with the Home Rule City Act (117.9) which requires that property owners within 300' of an area proposed for annexation receive notice of the public hearing.]*

- Concerns expressed that Lapeer County already has numerous vacant homes, some of which are new-builds, creating a glut of residential development; reference was made to a Michigan Township Association study that reported 200 new homes are vacant in Lapeer County; no need for additional residential development, let alone upscale/high-scale as proposed.
 - Concern expressed that annexation of expanded area would cause economic hardship to Township island residents.
 - If Township island territory is annexed, concern was expressed as to the rate of tap-in fees when these properties would ultimately have to connect to city water and sewer.
 - The Commission expressed concerns and requested commitment from the City that, unlike the reversal that was made on remaining neutral with annexation, the City would not later reverse the recent policy on water and sewer connection for the township island residents.
10. Based on suggestion by Commission Chairman at the public hearing whether involved parties are willing to resume negotiations for an intergovernmental agreement:
- City Unknown
 - Township Supports
 - Petitioner Opposes